



**Office of Nuclear Material Safety and Safeguards  
Procedure Approval**

***Agreement State Participation in Rulemaking Working Groups SA-801A***

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Issue Date: January 16, 2019

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Review Date: January 16, 2024

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*Date: January 8, 2019*

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**NOTE**

***Any changes to the procedure will be the responsibility of the Office of Nuclear Material Safety and Safeguards (NMSS). Copies of the NMSS procedures will be available through the NRC Web site.***

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## I. INTRODUCTION

The U.S. Nuclear Regulatory Commission (NRC) or the Organization of Agreement States (OAS) Executive Board may request a representative from the Agreement States to serve as a working group member during the rulemaking process. Rulemaking working groups provide a means for the NRC and the Agreement States to work cooperatively throughout the various stages of the rulemaking process. These working groups enhance the partnership between the NRC and the Agreement States, facilitate the use of the expertise that exists in the NRC and the Agreement States, and support the National Materials Program. The Office of Nuclear Material Safety and Safeguards (NMSS), Division of Rulemaking (DRM) and Division of Materials Safety, Security, State, and Tribal Programs (MSST), and the OAS Director of Emerging Issues and Advocacy will coordinate all requests for Agreement State participation in working groups.

## II. OBJECTIVES

- A. This procedure implements the agency's requirements for Management Directive (MD) 5.3, "Agreement State Participation in Working Groups," as it pertains to rulemaking working groups.
- B. Consistent with SA-801, "Agreement State Participation in NRC Working Groups," which applies to all NRC working groups, this procedure develops a process specifically for NRC working groups through which every rulemaking working group member does the following:
  - 1. Contributes to the development and implementation of a rulemaking working group charter.
  - 2. Aligns with the vision, purpose, and goals as stated in the rulemaking working group charter.
  - 3. Applies initiative and creativity to each task.
  - 4. Adheres to the principles of good regulations and commits to the highest standards for quality and effective problem solving.

## III. BACKGROUND

- A. Rulemaking Working Groups and Steering Committees

NRC rulemaking working groups are established to facilitate the efficient preparation of rulemaking packages, which typically contain a Commission paper, *Federal Register* notice, environmental impact statement or assessment, regulatory analysis, and a backfit evaluation or analysis, as necessary. The working group members assess the tasks needed to prepare the necessary rulemaking documents and work with the lead



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NRC rulemaking project manager to determine which specific working group members should undertake those tasks, as appropriate to their technical responsibilities and expertise. Rulemaking working groups will include Agreement State membership if the proposed rulemaking involves program elements that must be adopted by an Agreement State for purposes of compatibility, as well as those that need to be adopted due to considerations of particular health and safety significance. An Agreement State member may also be added on an ad hoc basis to provide input on a specific portion of the rulemaking, if applicable. NRC/OAS working groups combine NRC and Agreement State expertise and jointly leverage the NRC and Agreement State resources.

If a rulemaking topic is complex or controversial, the NRC rulemaking project manager or their Branch Chief (BC) may request that the DRM Director establish a management-level rulemaking steering committee. The steering committee provides direction and guidance to the working group and facilitates the concurrence process and other activities. The steering committee meets periodically, is briefed by the rulemaking project manager on the status of activities, and can be convened during any phase of rulemaking. Areas where the working group cannot reach agreement (e.g., policy, technical, allotment of resources) should be presented to the steering committee for guidance and resolution. An Agreement State representative may be asked to serve on a rulemaking steering committee, as appropriate. In some cases involving complex rules, there may be more than one Agreement State representative on the rulemaking steering committee.

MD 6.3, "The Rulemaking Process," describes general organizational responsibilities in the rulemaking process. NMSS Policy and Procedure 6-10, "NMSS Procedures for Preparation and Review of Rulemaking Packages" (nonpublic), provides detailed procedures for initiating, conducting, and managing NMSS rulemakings. Appendix B of this procedure provides a checklist to facilitate the NRC staff's adherence to MD 5.3, "Agreement State Participation in Working Groups," when managing rulemaking working groups with Agreement State members.

### **B. General Operating Standards**

All rulemaking working group members should have the opportunity to actively contribute to work goals, tasks, and products or outcomes. Rulemaking working group members should be active in recommending improvements and should understand how their contributions are used in the process and products. Their expected duties include the following:

1. Attending rulemaking working group meetings.
2. Being prepared to discuss issues at meetings.
3. Providing input in a timely manner.
4. Staying focused on the task(s).

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5. Clearly stating the positions and concerns of the member's organization.
6. Providing feedback to the member's management or organization to facilitate the completion of final products.
7. Working as a team and properly balancing differing views in accordance with the NRC's policies in an open collaborative work environment and safety culture and climate.

#### **IV. ROLES AND RESPONSIBILITIES**

##### **A. NMSS/DRM Director**

1. After consultation with the MSST Director, reviews and approves all charters of NRC/Agreement State rulemaking working groups to help ensure efficiency and effectiveness in the group, and ensures effective purpose, function, and product.
2. Coordinates with the MSST Director to approve the establishment of all rulemaking working groups and management-level steering committees for issues that would directly affect an Agreement State to help ensure appropriate coordination with the Agreement States.
3. Establishes expectations for communication strategies for (1) seeking input from stakeholders, when appropriate, and (2) providing status updates and results to the steering committee and the OAS Executive Board.
4. In conjunction with the lead technical organization, ensures that the rulemaking working group is given the resources necessary to accomplish the tasks, and tracks their progress.

##### **B. NMSS/MSST Director**

1. Coordinates with the DRM Director to approve the establishment of rulemaking working groups and management-level steering committees for issues that would directly affect an Agreement State to help ensure appropriate coordination with the Agreement States.
2. Serves as a member of any Steering Committee established for rulemakings that may impact Agreement States.
3. Appoints an NRC/Agreement State rulemaking working group coordinator through the Agreement State Programs Branch (ASPB).



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4. Ensures communication with the OAS Director of Emerging Issues and Advocacy for the appointment of Agreement State representation on rulemaking working groups.
5. Provides concurrence on any Nuclear Materials Users business line rulemaking packages.

**C. OAS Executive Board**

1. Consults with NMSS/MSST or DRM on Agreement State involvement in rulemaking working groups.
2. Provides Agreement State representatives for participation in rulemaking working groups.
3. Reviews and approves all charters of NRC rulemaking working groups with Agreement State working group members.

**D. OAS Director of Rulemaking**

1. Serves as an ad hoc member on the Common Prioritization of Rulemaking (CPR) working group, provides input on rules that affect the Agreement States, and informs Agreement States of any upcoming rulemaking activities.
2. Serves as a co-chair on the Standing Committee for Compatibility (SCC). The SCC is a working group established pursuant to MD 5.3 to enhance the existing compatibility determination process through the independent review of program elements required for compatibility. The Committee will review program elements, including regulation changes in their proposed format, which are a matter of compatibility. The Committee will provide feedback to the rulemaking project manager preparing the program element.
3. Reviews the "Agreement State" section of the rulemaking plan and consults with DRM on any suggested changes.

**E. OAS Director of Emerging Issues and Advocacy**

1. Coordinates with the NMSS/MSST ASPB Branch Chief to provide an Agreement State rulemaking working group member with the appropriate technical expertise.
2. Ensures that State representation is diverse among different rulemakings.

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**F. NRC/DRM Rulemaking Branch Chief**

1. Assigns a project manager to lead the rulemaking working group and ensures that there is adequate staff support to complete the rulemaking in accordance with the schedule. This includes assigning a backup project manager for each rulemaking activity.
2. Facilitates the development of the rulemaking working group charter in conjunction with the NMSS/MSST ASPB Branch Chief.
3. Attends the rulemaking working group kickoff meeting and ensures that all expectations are understood.
4. Serves as a working group member for the Rulemaking Coordinating Committee, the CPR, and the SCC, and, in doing so, interacts with the OAS Director of Rulemaking and provides updates on rulemakings that may be of interest to the Agreement States.
5. Informs the rulemaking project manager and DRM management of any issues related to the rulemaking and informs DRM management of any delays that may result.
6. Provides concurrence on rulemaking documents and facilitates the review of the rulemaking package with NRC senior management.

**G. NRC/MSST ASPB Branch Chief**

1. Reviews the development of the rulemaking working group charter, in conjunction with the Rulemaking Branch Chief, and posts it on the external Web site.
2. Provides advice to NMSS/DRM on the implementation of this procedure.
3. Coordinates requests for Agreement State participation on rulemaking working groups with MSST management.
4. Maintains a master list of NRC/Agreement State rulemaking working groups and respective charters that is updated and distributed, as needed (e.g., when new rulemaking working groups are established or current working groups complete their objectives), and posts the list on the State Communications Portal external Web site.
5. Serves as a voting member on the SCC or designates someone to do so.

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H. Rulemaking Working Group Project Manager

1. Develops the draft charter for the rulemaking working group that preserves the essential elements of the request for participation and addresses the purpose, membership, objectives, operating rules, and schedule of the rulemaking working group.
2. Leads rulemaking working group meetings, including, but not limited to, establishing meeting schedules and agenda.
3. Finalizes the rulemaking working group's charter during the first rulemaking working group meeting.
4. Ensures the preparation of meeting minutes and other support activities, as appropriate.
5. Ensures that appropriate documents are made available in the NRC's Agencywide Documents Access and Management System (ADAMS) and the Public Document Room, as appropriate.
6. Ensures that the rulemaking working group follows the charter, regulatory basis, rulemaking plan, and rulemaking, including the completion of all tasks within the agreed-upon timeframe.
7. Ensures that the lead technical organization and the steering committee (if applicable) are kept informed of rulemaking working group activities.
8. Ensures that issues and areas that need policy guidance or direction are brought to the lead organization or steering committee (if applicable) for discussion and resolution. If the rulemaking working group has no steering committee and needs guidance, the rulemaking project manager will bring the issue(s) to the attention of branch, division, or office management. In addition, the issue(s) may be brought to the OAS Executive Board, and the Office of the General Counsel (OGC), as applicable.
9. Issues the final rulemaking working group product or products.

I. NRC/Agreement State Rulemaking Working Group

The rulemaking working group should include the following members: rulemaking project manager, NRC technical lead(s), OGC attorney, cost analyst, regulations specialist, and Agreement State representative(s) (as appropriate).

Rulemaking working groups will include Agreement State membership if the proposed rulemaking involves program elements that must be adopted by an Agreement State for purposes of compatibility, as well as those that need to be





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adopted due to considerations of particular health and safety significance. In addition to the responsibilities listed below, the Agreement State member(s) of the NRC/Agreement State rulemaking working group will inform the OAS Director of Rulemaking of the rulemaking working group's activities and solicit comments and input on rulemaking working group issues. Additionally, the Agreement State member(s) will notify the rulemaking project manager and OAS Executive Board of potential issues or concerns and obtain and share comments received from other Agreement States with the rulemaking working group.

The Rulemaking Working Group members have the following responsibilities:

1. Prepare the rule package.
2. Prepare the rule documents.
3. Review and comment on draft documents.
4. Address comments.
5. Prepare briefing materials.
6. Complete the rulemaking package on time.
7. Review contract reports, as appropriate.
8. Assist the lead technical organization with preparation of associated guidance (including licensing, inspection, and enforcement guidance), as appropriate, and help develop milestones for its preparation so that draft and final guidance will be available for implementation of the rule.
9. Facilitate the rulemaking concurrence process by assisting with the resolution of any significant issues or concerns.
10. Attend and participate in rulemaking working group meetings and are appropriately prepared for such meetings.
11. Support and participate in management briefings and any public meetings.
12. Inform the chair, co-chair(s), or task leader of conflicting priorities or problems.
13. Ensure that the opinions and views of their management or organization are understood and presented to the rulemaking working group.



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J. Steering Committee

A steering committee is used primarily for complex or controversial rules or when policy and resource issues arise during the rulemaking process, such as when stakeholder views conflict or when implementation may affect several divisions or offices.

A steering committee should include the following members or corresponding designees: DRM Division Director (serves as chair), lead technical division director, Assistant General Counsel, senior management representatives from other offices (as appropriate), Agreement State representative(s) (as appropriate), and representatives from other Federal agencies (as appropriate). Agreement State steering committee members will be selected based on the expertise needed. Steering committee members have the following responsibilities:

1. Review, comment, and agree to the rulemaking working group charter.
2. Provide guidance and direction to the rulemaking working group.
3. Provide feedback on rulemaking working group products and facilitate concurrence.
4. Keep applicable office or division senior management informed of issues, schedules, and the rulemaking working group's activities, as necessary.

In addition, the Agreement State member(s) of the steering committee groups will (1) obtain and express the views of other Agreement State members, (2) inform the OAS Executive Board of activities, and (3) notify the OAS Executive Board of potential issues or concerns.

**V. RULEMAKING ACTIVITIES INVOLVING AGREEMENT STATE WORKING GROUP MEMBERS**

Agreement State working group members may be involved in different stages of the rulemaking process, including the rulemaking plan, regulatory basis, proposed rule, final rule, direct final rule (DFR), petition for rulemaking (PRM), and CPR process. If a rulemaking includes an Agreement State member for multiple stages of the rulemaking process, this member should remain the same (if possible) to provide consistency throughout the rulemaking process. This document describes each stage of the rulemaking process and serves as the primary resource for Agreement State involvement in each of these processes. NMSS Policy and Procedure 6-10, "NMSS Procedures for Preparation and Review of Rulemaking Packages" (nonpublic), provides additional details on the rulemaking process. The [rulemaking tracking and reporting system](#) provides near real-time information on active rules and petitions. The



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NRC updates the data in this system every 2 weeks and posts a change report that highlights the significant changes in rulemakings or petitions that occurred during this timeframe.

Section VI of this procedure should be referenced when a rulemaking working group will include an Agreement State member, as that section contains detailed instructions and guidance on how to request an Agreement State rulemaking working group member and how to draft a charter. Section VI also contains information on special considerations that may arise during the rulemaking process, such as the distribution of predecisional information to Agreement States, travel considerations, timekeeping, differing professional opinions, and Agreement State sunset review and sunseting. Additionally, Appendices A, B, and C to this document include templates for a rulemaking working group charter, checklist for establishing and operating rulemaking working groups, and request for Agreement State membership on a rulemaking working group, respectively.

### **A. Rulemaking Plan**

A rulemaking plan is the first stage of the rulemaking process. The document is a brief outline of the scope and impact of the contemplated action with only as much detail as necessary for the Commission to determine whether the proposed rulemaking is necessary.

#### **1. Soliciting Agreement State Participation**

OAS will be informed of rulemaking plans that will be developed in the coming year through at least one of the following three channels:

- a. The most common vehicle for early awareness of rulemaking plans will be directly through the OAS Director of Rulemaking. The current OAS Director of Rulemaking serves as an ad hoc member of the CPR working group and, therefore, will be involved in the prioritization of upcoming rulemakings and will be made aware of upcoming rulemaking plans that should include Agreement State involvement.
- b. A direct request for information on upcoming rulemaking plans may be submitted to the NMSS/MSST ASPB Branch Chief.
- c. Upcoming rulemaking plans may be discussed during the SCC meetings and/or during the monthly scheduled NRC/OAS/Conference of Radiation Control Program Directors (CRCPD) teleconferences.

#### **2. Agreement State Participation**

- a. Agreement State representatives will not participate as a member(s) of the rulemaking working group during the rulemaking plan development phase unless specifically requested by OAS and agreed upon by NRC.

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However, for every rulemaking plan drafted by NRC staff, the OAS Director of Rulemaking will review the draft Agreement State section of the rulemaking plan and determine if Agreement State representation on the working group is desirable. If an Agreement State member is appointed to the working group, the Agreement State member will review the entire document upon completion of the draft; therefore, working groups should, if possible, consider drafting the Agreement State section early in the writing process to allow adequate time for the OAS Director of Rulemaking or the Agreement State working group member to provide feedback.

- b. Upon completion of the draft rulemaking plan, the Agreement States will have 30 days to review and comment on the document. Although this review is not part of the formal concurrence process, which is internal to the NRC only, the NRC will ensure that it considers and applies Agreement State comments, as appropriate.

## B. Regulatory Basis

The regulatory basis stage officially begins when the Commission issues a staff requirements memorandum that approves the rulemaking plan for the rulemaking. The regulatory basis contains the justification for the rulemaking; describes the issues that must be addressed; provides the scientific, technical, legal, or policy information that supports the rulemaking; and provides a basis for the informed decisions to be made during the rulemaking process.

### 1. Soliciting Agreement State Participation

OAS will be informed of regulatory bases that will be developed through one of the following channels:

- a. The most common vehicle for early awareness of regulatory basis development will be directly through the OAS Director of Rulemaking. The current OAS Director of Rulemaking serves as an ad hoc member of the CPR working group and the SCC and, therefore, will be aware of upcoming rulemaking activities that should include Agreement State involvement.
- b. Additionally, information on upcoming draft regulatory bases may be discussed during the monthly call with the OAS and the CRCPD.
- c. A direct request for information on upcoming regulatory bases may be submitted to the NMSS/MSST ASPB Branch Chief.

### 2. Agreement State Participation



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- a. An Agreement State member should be considered to join a working group during the regulatory basis stage if the Agreement States express an interest in participating on the working group through the OAS Director of Rulemaking. In this case, the rulemaking project manager will draft an email to MSST management requesting that an Agreement State member be added to the working group during the regulatory basis stage.

This request will be coordinated through ASPB and transmitted through MSST management. This member will join the working group once the schedule and milestones for development of the regulatory basis have been determined but before regulatory basis language is drafted.

- b. Upon completion of the draft regulatory basis, the Agreement States will have an opportunity to review and comment on the document. This review should typically be completed within 30 days, but the actual comment period will be coordinated with the OAS. This review will occur in parallel with the interoffice concurrence process, and the rulemaking project manager will follow procedures similar to Step 6 of Appendix D of NMSS Policy and Procedure 6-10, "NMSS Procedures for Preparation and Review of Rulemaking Packages" (nonpublic), as follows:
  - (i) The rulemaking project manager prepares a daily note (working with the NMSS technical assistant) to inform the Commission that the draft regulatory basis is being provided to the Agreement States for review and comment.
  - (ii) The rulemaking project manager prepares the draft *Federal Register* notice (FRN) and draft regulatory basis for distribution to the Agreement States. The predecisional document should be labeled as follows:

PREDECISIONAL DRAFT INFORMATION  
INFORMATION FEDERALLY PROTECTED  
NOT FOR PUBLIC DISCLOSURE

- (iii) The rulemaking project manager sends the draft FRN through e-mail to OGC for review and then to the ASPB Branch Chief.
  - (iv) The rulemaking project manager may prepare the Agreement State Radiation Control Program Director (RCPD) letter. In preparing the Agreement State RCPD letter, the rulemaking project manager would coordinate with the ASPB Branch Chief to establish a reasonable comment period length. This review should typically be completed within 30 days, but the actual comment period will be coordinated with the OAS. For complex

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packages, the comment period may be longer. Any extensions should be granted through the issuance of a second Agreement State RCPD letter prepared by the rulemaking project manager.

- (v) The DRM administrative assistant places the Agreement State RCPD letter (if applicable), the marked draft FRN, and the draft regulatory basis in ADAMS. This package is sent to the Agreement States through e-mail using the LYRIS software program electronic list servers. The rulemaking project manager announces the availability of the draft documents for Agreement State comment during the next NRC/OAS/CRCPD monthly teleconference.
- (vi) The rulemaking project manager and the rulemaking working group members address comments received from the Agreement States. The Commission paper should discuss the staff's disposition of Agreement State comments. If the Agreement States provide substantive comments or if the draft regulatory basis has significant changes, the rulemaking project manager reissues the package to the appropriate divisions and offices for concurrence.
- (vii) If the draft regulatory basis has significant changes, the rulemaking project manager will coordinate with the ASPB Branch Chief to inform OAS of changes made before the draft regulatory basis is published.
- (viii) The rulemaking project manager completes the RCPD Comments Received response form (see NMSS Administrative Procedure Approval, "Format for STC and RCPD Letters," AD-200, Appendix G). Either the rulemaking project manager or the DRM administrative assistant adds the form and the comments received to ADAMS. The documents should be scanned as a single document and should not be made publicly available.

#### C. Proposed Rule

The proposed rule stage officially begins when the regulatory basis has been published. Each proposed rule package includes a *Federal Register* notice, as well as the appropriate supporting documents. After the Commission votes on a proposed rule, the rulemaking working group will update the rulemaking package, as appropriate, to incorporate aspects of the Commission's staff requirements memorandum and publish the proposed rule in the *Federal Register* to solicit public comments.



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### **1. Soliciting Agreement State Participation**

OAS will be informed of proposed rules that will be developed through one of the following channels:

- a. The most common vehicle for early awareness of proposed rule development will be directly through the OAS Director of Rulemaking. The current OAS Director of Rulemaking serves as an ad hoc member of the CPR working group and the SCC and, therefore, will be aware of upcoming rulemaking activities that should include Agreement State involvement.
- b. Information on an upcoming proposed rule may be discussed during the NRC/OAS/CRCPD monthly teleconference.
- c. A direct request for information on upcoming proposed rules may be submitted to the NMSS/MSST ASPB Branch Chief.

### **2. Agreement State Participation**

- a. An Agreement State member should be considered to join a proposed rule working group if the Agreement States express an interest through the OAS Director of Rulemaking. In this case, the rulemaking project manager will draft an email to MSST management requesting that an Agreement State member to be added to the proposed rule working group. This request will be coordinated through ASPB and transmitted through MSST management. Once an Agreement State member is assigned to the proposed rule working group, that member will have the roles and responsibilities listed in Section IV.I of this procedure.
- b. Upon completion of the draft proposed rule package, the Agreement States will have an opportunity to review and comment on the document. This review should typically be completed within 30 days, but the actual comment period will be coordinated with the OAS. This review will occur in parallel with the interoffice concurrence process, and the rulemaking project manager will follow the procedures detailed in Step 6 of Appendix D to NMSS Policy and Procedure 6-10, "NMSS Procedures for Preparation and Review of Rulemaking Packages" (nonpublic), as follows:
  - (i) The rulemaking project manager prepares a daily note (working with the NMSS technical assistant) to inform the Commission that the proposed rule is being provided to the Agreement States for review and comment.





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- (ii) The rulemaking project manager prepares the draft FRN for the proposed rule for distribution to the Agreement States. As the FRN is still predecisional, it should be labeled as follows:

**PREDECISIONAL DRAFT INFORMATION  
INFORMATION FEDERALLY PROTECTED  
NOT FOR PUBLIC DISCLOSURE**

The rulemaking project manager e-mails the marked draft FRN to OGC for review and then to the ASPB BC. The ASPB BC will provide the document to the SCC for review of the compatibility determination for the proposed rule. The SCC recommendation is included in the Commission paper in the Agreement State Issue section of the paper. The SCC has a 30-day review period to decide whether the Committee agrees or disagrees on the compatibility designation and to provide any comments that the SCC may have on this matter. If the rulemaking project manager does not take the SCC's suggested changes, the rulemaking project manager should discuss the rationale with DRM management and a discussion of the rationale should be included in any Commission paper in the Agreement State issues section of the paper.

- (iii) The rulemaking project manager prepares the RCPD letter for signature by the MSST Division Director. In preparing the RCPD letter, the rulemaking project manager must coordinate with the ASPB BC to establish a reasonable comment period length. Although the Agreement States typically have a 30-day comment period, the ASPB BC will coordinate with OAS to determine the requested due dates for Agreement State comments. For complex proposed rule packages, the comment period may be longer. Any extensions should be granted by using a second RCPD letter prepared by the rulemaking project manager.
- (iv) The DRM administrative assistant places the RCPD letter and the marked draft FRN in ADAMS. The RCPD letter with the FRN as an attachment will be provided to the Agreement States by e-mail using the LYRIS software program electronic list servers. The rulemaking project manager announces the availability of the draft document for Agreement State comment during the next NRC/OAS/CRCPD monthly call.
- (v) The rulemaking project manager, in concert with WG members, addresses comments received from the Agreement States and the SCC. The Commission paper should include a discussion of the staff's disposition of Agreement State and SCC comments. If the Agreement States provide substantive comments and/or if





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the proposed rule has significant changes, the rulemaking project manager will resend the package to the appropriate divisions and offices to confirm their concurrences.

- (vi) If the proposed rule has significant changes resulting from any level of concurrence after Agreement State review or from Commission review, the rulemaking project manager will coordinate with the ASPB BC to inform OAS of changes made before the proposed rule is published.
  - (vii) The rulemaking project manager completes the RCPD response form (a table with information on which Agreement States provided comment). The form, along with the comments received, should be added to ADAMS following the DRM document log process. The form should be a single document and should not be made publicly available.
- c. Once the Commission has approved the proposed rule for publication, the rulemaking project manager will prepare a State and Tribal communications (STC) letter to notify the Agreement States and the Federally recognized Tribes, if appropriate. The letter should encourage the Agreement State agencies to notify their affected licensees so that both the licensees and their respective State agencies can submit more informed comments on the proposed rule and any associated guidance.

### **D. Final Rule**

The final rule stage officially begins when the proposed rule is published in the *Federal Register*. During the final rule stage, the NRC rulemaking working group considers and dispositions public comments received on the proposed rulemaking. Each draft final rule package includes the *Federal Register* notice for the draft final rule, as well as the appropriate supporting documents.

#### **1. Soliciting Agreement State Participation**

The most common vehicle for communication will be through the Agreement State working group member that served on the proposed rule working group. Once a proposed rule is published for public comment, the working group members will be informed of comments and asked to address the comments for resolution in the draft final rule.

Occasionally, the NRC will develop a rule that is eligible for a waiver of the Administrative Procedures Act provision to provide notice and an opportunity for public comment of a rulemaking activity. In that case, the



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staff develops a final rule without first developing a proposed rule, and the OAS will be informed of final rules that will be developed through one of the following channels:

- a. Information on an upcoming final rule may be discussed during the NRC/OAS/CRCPD monthly teleconference.
- b. A direct request for information on upcoming final rules may be submitted to the NMSS/MSST ASPB Branch Chief.

### **2. Agreement State Participation**

- a. If the working group for the proposed rule included an Agreement State member, that same member should serve on the final rule working group as well. If an Agreement State member was not on the proposed rule working group but would like to be included in the final rule working group, that Agreement State member should coordinate participation through the OAS Director of Emerging Issues and Advocacy to participate in the final rule working group. At the request of the OAS Director of Rulemaking, the rulemaking project manager will draft an email to MSST management requesting that an Agreement State member be added to the final rule working group. This request will be coordinated through ASPB and transmitted through MSST management. Once an Agreement State member is assigned to the final rule working group, that member will have the roles and responsibilities listed in Section IV.I of this procedure.
- b. Upon completion of the draft final rule package, the Agreement States will have an opportunity to review and comment on the document. This review should typically be completed within 30 days, but the actual comment period will be coordinated with the OAS. This review will occur in parallel with the NRC interoffice concurrence process, and the rulemaking project manager will follow the procedures detailed in Step 7 of Appendix E of NMSS Policy and Procedure 6-10, "NMSS Procedures for Preparation and Review of Rulemaking Packages" (nonpublic), which are identical to the procedures detailed in Section V.C.2.b of this document.
- c. Once the final rule has been revised to consider the comments received, the rulemaking project manager should provide a copy of the final rule to the MSST State Regulations Review Coordinator if Agreement States will need to adopt the rule. This allows MSST to begin developing the material used for Agreement State adoption. MSST will issue an STC letter informing the Agreement States of the



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final rule publication and the required adoption date. This letter also includes two attachments, the “Chronology of Amendments” list and the “Summary of Change” document, detailing the specific revisions/additions included in the published final rule.

### **E. Direct Final Rule**

A direct final rule (DFR) is used for regulatory amendments not expected to result in any significant adverse comment. Under MD 6.3, “The Rulemaking Process,” a DFR rulemaking can only be justified for a minor issue or change in policy—matters that generally should not need guidance to clarify the new requirement.

#### **1. Soliciting Agreement State Participation**

OAS will be informed of DFRs that will be developed through one of the following channels:

- a. The most common vehicle for early awareness of DFR development will be directly through the OAS Director of Rulemaking. The current OAS Director of Rulemaking serves as an ad hoc member of the CPR working group and the SCC and, therefore, will be aware of upcoming rulemaking activities that should include Agreement State involvement.
- b. Information on an upcoming DFR may be discussed during the NRC/OAS/CRCPD monthly teleconference.
- c. A direct request for information on upcoming DFRs may be submitted to the NMSS/MSST ASPB Branch Chief.

#### **2. Agreement State Participation**

- a. An Agreement State member should be considered to join a DFR working group. ASPB should consult with the OAS Director of Rulemaking to determine whether the Agreement States would like to join the DFR working group. In this case, the rulemaking project manager will draft an email to MSST management requesting that an Agreement State member be added to the DFR working group. This request will be coordinated through ASPB and transmitted through MSST management. Once an Agreement State member is assigned to the DFR working group, that member will have the roles and responsibilities listed in Section IV.I of this procedure.
- b. Upon completion of the draft DFR package, the Agreement States will have an opportunity to review and comment on the documents. This review should typically be completed within 30 days, but the actual comment period will be coordinated with the OAS. This review will



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occur in parallel with the interoffice concurrence process and the rulemaking project manager should follow the procedures detailed in Step 6 of Appendix F of NMSS Policy and Procedure 6-10, "NMSS Procedures for Preparation and Review of Rulemaking Packages" (nonpublic), as follows:

- (i) The rulemaking project manager prepares a daily note (working with the NMSS technical assistant) to inform the Commission that the companion proposed rule and DFR are being provided to the Agreement States for review and comment.
- (ii) The rulemaking project manager prepares the draft FRNs for the companion proposed rule and DFR for distribution to the Agreement States. As the FRNs are still predecisional, they should be labeled as follows:

**PREDECISIONAL DRAFT INFORMATION  
INFORMATION FEDERALLY PROTECTED  
NOT FOR PUBLIC DISCLOSURE**

- (iii) The rulemaking project manager prepares the RCPD letter for signature by the MSST Division Director. In preparing the RCPD letter, the rulemaking project manager must coordinate with the ASPB BC to establish a reasonable comment period length. Although the Agreement States typically have a 30-day comment period, the ASPB BC will coordinate with OAS to determine the requested due dates for Agreement State comments. For complex packages, the comment period may be longer. Any extensions should be granted by using a second RCPD letter prepared by the rulemaking project manager.
- (iv) The DRM administrative assistant places the RCPD letter and the marked draft FRNs in ADAMS. The RCPD letter with the draft FRNs will be provided to the Agreement States by e-mail through the use of the LYRIS software program electronic list servers. The rulemaking project manager announces the availability of the draft documents for Agreement State comment during the next NRC/OAS/CRCPD monthly call.
- (v) The rulemaking project manager, in concert with WG members, addresses comments received from the Agreement States and the SCC. The Commission paper should include a discussion of the staff's disposition of Agreement State and SCC comments. If the Agreement States provide substantive comments and/or if the companion proposed rule and DFR have significant changes, the rulemaking project manager will resend the



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package to the appropriate divisions and offices to confirm their concurrences.

- (vi) If the companion proposed rule and the DFR have significant changes from the previous draft resulting from any level of concurrence after Agreement State review or from Commission review, the rulemaking project manager must coordinate with the ASPB to inform OAS of changes made before the final version is published.
  - (vii) The rulemaking project manager completes the RCPD response form (a table with information on which Agreement States provided comment). The form, along with the comments received, should be added to ADAMS following the DRM document log process. The form should be a single document and should not be made publicly available.
- c. The rulemaking project manager will prepare the STC letter to notify the Agreement States that the NRC is about to publish the DFR and companion proposed rule. The letter should encourage the Agreement State agencies to notify their affected licensees so that both the licensees and their respective State agencies can submit more informed comments on the DFR and companion proposed rule.
  - d. The rulemaking project manager should provide a copy of the final DFR and companion proposed rule to the MSST State Regulations Review Coordinator if Agreement States will need to adopt the rule. This allows MSST to begin developing the material used for Agreement State adoption. MSST will issue a STC letter informing the Agreement States of the DFR and companion proposed rule publication and the required adoption date and includes two attachments, the "Chronology of Amendments" list and the "Summary of Change" document, detailing the specific revisions/additions included in the published direct final rule.

### **F. Petition for Rulemaking**

Federal law allows people, companies, states, local governments, and Federally recognized Tribes to ask agencies to adopt, revise, or withdraw existing regulations. This type of request is known as a petition for rulemaking (PRM). When a petition for rulemaking is received, the NRC evaluates it to see if it meets the docketing criteria described in Section 2.802 of Title 10 of the

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*Code of Federal Regulations.* If the PRM meets the 2.802 criteria, a working group is formed.

1. Soliciting Agreement State Participation

OAS may be informed of PRMs through one of the following channels:

- a. If the NRC decides to request public comments in the docketing FRN for a PRM, the Agreement States may provide feedback and identify whether the PRM could potentially affect Agreement States.
- b. After a PRM is docketed, the rulemaking project manager assigned to lead the working group will identify whether an Agreement State member should be on the PRM working group. The PRM working group should include Agreement States if the petition affects them or may lead to a rulemaking that would provide a compatibility recommendation. In this case, the rulemaking project manager will draft an email to MSST management requesting that an Agreement State member be added to the PRM working group. This request will be coordinated through ASPB and transmitted through MSST management.

2. Agreement State Participation

- a. Once an Agreement State member is assigned to the PRM working group, he or she will assume the roles and responsibilities of a PRM working group member, including attending working group meetings, providing input in development of the draft and final PRM disposition package, presenting at the Petition Review Board meeting if asked by the rulemaking project manager, and coordinating the review of the package by Agreement States.
- b. Upon completion of the draft PRM disposition package, the Agreement States will have an opportunity to review and comment on the document. This review will occur in parallel with the interoffice concurrence process, and Agreement States will have 10 to 20 working days to provide comments based on the complexity of the package.
- c. Before publication of the PRM disposition package, the rulemaking project manager will prepare an STC letter to notify the Agreement States, non-Agreement States, and State liaison officers that the NRC is about to publish the Commission-approved PRM disposition package, which would include an FRN closing the petition docket.



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G. Common Prioritization of Rulemaking

The CPR is the method by which the agency develops program budget estimates and determines the relative priority of rulemaking activities. The CPR process considers four factors and assigns a score to each factor. Those factors include (1) support for the goals of the NRC's Strategic Plan; (2) support for the principles of good regulation; (3) a governmental interest to the NRC, Congress, or other governmental bodies; and (4) an external interest from members of the public, nongovernmental organizations, the nuclear industry, vendors, and suppliers.

1. CPR working group

The CPR working group exists to ensure that all offices involved in rulemaking coordinate with each other in the development of agency rules. The CPR working group is led by the RASB team lead and coordinates rulemaking activities to plan for the next 2 years in the budget cycle. The CPR cycle begins each fall and is kicked off with a data call to all rulemaking offices to request the submission of any new rulemaking activities that the offices want to include in their budgets over the next 2 fiscal years or any existing rules that need to be reprioritized. The working group meets to discuss the priority of any new or existing rule and to reach consensus on the priority of the rule.

2. Agreement State Participation

- a. The OAS Director of Rulemaking or a designee serves as an ad hoc member of the CPR working group and will provide input on the rules that pertain to Agreement States. The RASB team lead (CPR working group leader) will include the OAS Director of Rulemaking or designee and the ASPB Branch Chief in the CPR distribution list to ensure that OAS is aware of potential rules that would affect Agreement States. The Rulemaking Branch Chief will also follow up with the OAS Director of Rulemaking to ensure that all rules pertaining to OAS have appropriate working group involvement.
- b. The initial e-mail will inform members of the CPR schedule, pertinent instructions related to participation, the number of working group meetings that will take place, and the expectations for the working group members.
- c. If it is determined that there are rules pertaining to Agreement States, the OAS Director of Rulemaking or designee will serve as a member of the CPR working group, but will not participate in the budget assignment process. As a CPR working group member, that individual will assist in the process of scoring the rules and, therefore, will be aware of upcoming rulemaking activities that will affect Agreement



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States and that could lead to Agreement State involvement on future rulemaking working groups.

## **VI. GUIDANCE**

### **A. Establishing NRC/Agreement State Rulemaking Working Groups**

#### **1. NMSS/DRM and NMSS/MSST**

DRM will identify the need to establish a rulemaking working group and will assume lead responsibility for the rulemaking working group and will coordinate with MSST on including an Agreement State participant to the working group. In this process, DRM and MSST are responsible for establishing the purpose of the working group, requesting participation, drafting and finalizing a charter in coordination with OAS, identifying members, and tracking progress.

#### **2. Preparing a Request for Agreement State Membership in a Rulemaking Working Group**

- a. DRM will submit an email to MSST/ASPB requesting Agreement State rulemaking working group members through the OAS Director of Emerging Issues and Advocacy.

DRM will contact MSST to discuss Agreement State involvement. DRM will provide the following to MSST for its use in seeking Agreement State representation: purpose of the working group, scope of activities, expected product or outcome of the working group, and the estimated level of effort expected of members. Appendix C of this procedure provides a sample email request for members. Section VI.A.2.b of this procedure presents guidance on how to complete each section of this request.

- b. The request for an Agreement State representative should include the following information:

##### **(i) Purpose**

Describe the specific purpose for creating the rulemaking working group, including any supporting background information. In addition, describe any restrictions or limitations that will be placed on the rulemaking working group.

##### **(ii) Suggested Membership**

Describe the suggested membership of the rulemaking working group, including the number of members desired from each



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organization and the desired expertise and skills of potential members. Note that there may be more than one Agreement State representative, depending on the complexity of the issues involved.

### **(iii) Level of Effort Expected of Rulemaking Working Group Members**

To the extent possible, the rulemaking project manager should develop a project plan with the following information:

- (1) The level of commitment expected of working group members.
- (2) The anticipated schedule of working group meetings.
- (3) The anticipated workload.
- (4) The anticipated number of trips.
- (5) The schedule for completion of tasks, products, and deliverables.

### **(iv) Scope of Activities and Expected Product**

Describe the scope of the activities, the proposed schedule with completion dates, and the expected product of the working group.

### **(v) Steering Committee**

Identify whether a steering committee will be established to support the working group and whether an Agreement State representative is needed for the steering committee.

- c. After submitting a request for members, DRM will place any new rulemaking working group(s) on the agenda for discussion during the next monthly NRC/OAS/CRCPD teleconference to ensure a common understanding of the purpose, scope, and proposed membership of the new rulemaking working group.

## **3. Identification of Rulemaking Working Group Members**

Each organization should identify and provide information on rulemaking working group members to DRM within 10 days of the formal request. DRM may suggest specific members for participation in the rulemaking working group; however, working group membership is ultimately the decision of respective program management. The OAS Director of Emerging Issues and Advocacy should have at least 10 days to identify State members.



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### **4. Preparing an NRC/Agreement State Rulemaking Working Group Charter**

#### **a. Drafting and Approval**

Before the rulemaking working group convenes, DRM, in conjunction with ASPB, should draft a charter for the working group and give working group members and steering committee members (if applicable) an opportunity to review and comment on the draft charter. The charter should preserve the essential elements of the request for membership. All rulemaking working groups must have a charter. The charter should be finalized within 30 days of the first rulemaking working group meeting. DRM management, MSST management, and the OAS chair will approve the final charter.

#### **b. Charter Contents**

The charter should contain the following information (see Appendix B). Recent working group charters appear on the NMSS Web site/State Communication Portal at <https://scp.nrc.gov>.

##### **(i) Purpose**

Describe the specific purpose for creating the rulemaking working group, including any supporting background information. In addition, describe any restrictions or limitations that will be placed on the rulemaking working group.

##### **(ii) Membership**

List each working group member, including the organization each member represents. In addition, the list should include steering committee membership and representation if a steering committee has been assigned to the working group.

##### **(iii) Objectives**

Clearly outline the tasks, products, outcomes, and deliverables to be completed by the working group.

##### **(iv) Schedule**

Describe the timeframe in which the working group is expected to complete its objectives and issue its final products. In addition, document information on expected progress reports, draft products, and meetings with the steering committee.

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(v) Operating Rules of the Working Group

All charters should clearly identify whether the working group operates as an NRC/Agreement State working group as described in Section IV of this procedure and MD 5.3.

(vi) Changes to the Working Group Charter

Any changes to the charter will go through the approval process, and the original charter will be followed unless a revision is agreed upon by all concurring organizations.

**B. Special Considerations**

**1. Predecisional Information**

All rulemaking information should be considered predecisional unless otherwise specified. SA-800, "Providing NRC Predecisional Documents to Agreement States, Organization of Agreement States, Inc., and Appropriate Working Groups of the Conference of Radiation Control Program Directors, Inc.," states that the current practice is to provide predecisional programmatic documents, such as drafts of rulemaking plans; regulatory bases; and proposed, final, and DFRs, to all Agreement States. However, some predecisional documents also contain sensitive unclassified nonsafeguards information (SUNSI). The NRC provides predecisional documents that contain SUNSI to Agreement States on a "need-to-know" basis only and in accordance with MD 3.4, "Release of Information to the Public." The staff will provide a SUNSI document only after determining that the Agreement States can protect the document from public disclosure under State law, as specified in SA-800.

**2. Changes in Membership**

If an Agreement State working group member must be replaced either temporarily or permanently, the OAS Director of Emerging Issues and Advocacy, DRM, and MSST should agree upon an appropriate replacement. If additional Agreement State members are required for a rulemaking working group, DRM and MSST should coordinate with the OAS Director of Emerging Issues and Advocacy. If an Agreement State member needs to be changed or added, the procedures detailed in Section VI.A.2 of this procedure will be followed.

**3. Travel Considerations for Working Group Members**

Under limited circumstances, the NRC may pay for the travel and per diem expenses for NRC-invited Agreement State working group members. In this event, travel and per diem expenses for an Agreement State member will be coordinated through NMSS/MSST. Most rulemaking working group



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meetings will be available to Agreement State members through a webinar or teleconference.

#### **4. Timekeeping**

If an Agreement State working group member needs documentation of the amount of time spent on working group tasks, the member should discuss his or her needs with the rulemaking project manager and the OAS Director of Emerging Issues and Advocacy.

#### **5. Sunset Review and Sunsetting**

Each year during the OAS Executive Board meeting, the OAS Executive Board, in conjunction with NMSS/MSST and NMSS/DRM, reviews the need for continuing each existing NRC/Agreement State rulemaking working group. NMSS/MSST, NMSS/DRM, and the OAS Executive Board also review the scope, progress, and membership of the working groups and suggest adjustments as necessary.

A rulemaking working group should be dissolved upon the issuance of the final working group tasks, products, or deliverables. Normally, additional work, if necessary, would be handled by OAS, the NRC, and individual Agreement State programs or through the formation of another working group. When additional work is expected from the rulemaking working group after issuance of the final product, the lead organization should discuss this need with NRC management and the OAS Executive Board, and the working group charter should be reviewed and revised, as appropriate.

### **VII. APPENDICES**

Appendix A General Sample Rulemaking Working Group Charter

Appendix B Checklist for Establishing and Operating Rulemaking Working Groups

Appendix C General Sample Email Request for Agreement State Membership on Rulemaking Working Groups

### **VIII. REFERENCES**

#### **A. *Federal Register* Notice**

67 FR 36920, "Enhancing Public Participation in NRC Meetings; Policy Statement," May 28, 2002.

#### **B. NRC Documents**

1. Commission Paper, COMKC-91-007, "Improving Cooperation with Agreement States," from Samuel J. Chilk, Secretary, to James M. Taylor,



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Executive Director for Operations, and Harold R. Denton, Director, Office of Governmental and Public Affairs, April 11, 1991.

2. NMSS State procedures, available at <https://scp.nrc.gov/procedures.html>
  - a. SA-800, "Providing NRC Predecisional Documents to Agreement States, Organization of Agreement States, Inc., and Appropriate Working Groups of the Conference of Radiation Control Program Directors, Inc."
  - b. SA-801, "Agreement State Participation in NRC Working Groups."
  - c. AD-200, "NMSS Procedure Approval – Format for STC and RCPD letters."
3. Management Directives (MD):
  - a. MD 3.4, "Release of Information to the Public."
  - b. MD 3.5, "Attendance at NRC Staff-Sponsored Meetings."
  - c. MD 5.3, "Agreement State Participation in Working Groups."
  - d. MD 6.3, "The Rulemaking Process."
  - e. MD 10.159, "The NRC Differing Professional Opinion Program."
4. NMSS Rulemaking Tracking and Reporting System, available at <https://www.nrc.gov/about-nrc/regulatory/rulemaking/rules-petitions.html>
5. NMSS Policy and Procedure 6-10, "NMSS Procedures for Preparation and Review of Rulemaking Packages" (nonpublic).
6. NMSS Public Meeting Schedule Web site, available at <http://meetings.nrc.gov/pmns/mtg>
7. NRC public affairs Web site, available at <https://www.nrc.gov/about-nrc/public-affairs.html>
8. NUREG-BR/0053, Revision 6, "United States Nuclear Regulatory Commission Regulations Handbook."
9. ADAMS Template No. NRC-001, "Meeting Related Documents for NRC Staff Level Offices"

**C. Code of Federal Regulations (CFR)**

- 10 CFR 2.802, "Petition for rulemaking—requirements for filing"

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- D. United States Code (U.S.C.)
1. Atomic Energy Act of 1954, as amended (42 U.S.C. § 2011, et seq.).
  2. Federal Advisory Committee Act of 1972, as amended (5 U.S.C. Appendix II).



**APPENDIX A**  
**GENERAL SAMPLE RULEMAKING WORKING GROUP CHARTER**

**WORKING GROUP TITLE:** [Proposed working group title]

**PROPOSED CHARTER**

**PURPOSE:** [State the purpose of the working group.]

**MEMBERSHIP:** The following personnel will serve on the working group: [List the names and organizations of the NRC and Agreement State personnel.]

**OBJECTIVES:** [List the working group objectives.]

**SCHEDULE:** [Provide the expected schedule.]

**LEVEL OF EFFORT EXPECTED OF MEMBERS:** [The level of effort expected for the working group and steering committee can vary depending on the task(s). Some tasks may be “desk audits,” which take 2 to 4 hours per week for a short period of time and require no travel. Other working groups may require several trips and phone or personal interviews, and the tasks may take several months to complete.]

**STEERING COMMITTEE:** The following personnel will participate on the steering committee: [List the names and organizations of the NRC and Agreement State personnel.]

Working group meetings are not subject to the requirements of the Federal Advisory Committee Act of 1972, as amended; however, they will be announced in advance through the NRC Public Meeting Notification System Web site (<http://meetings.nrc.gov/pmns/mtg>). Maximum use will be made of other appropriate media, such as conference calls, facsimiles, and e-mail, for facilitating interaction with the working group. Working group meetings will be open to the public (i.e., unless predecisional information that is not normally publicly disclosed will be discussed) and will be held in the Washington, DC, area or other locations as agreed upon by the working group members. Other persons attending working group meetings will be welcome to provide comments to the working group for its consideration in either written form or orally at times specified by the working group chair. Meeting minutes and draft and final documents produced by the working group will be publicly available in the NRC Library (available at <http://www.nrc.gov/reading-rm.html>), with the exception of exempt information.

**APPENDIX B**  
**CHECKLIST FOR ESTABLISHING AND**  
**OPERATING RULEMAKING WORKING GROUPS**

| <b>TASK</b>  | <b>RESPONSIBILITY</b>                          | <b>TIMEFRAME</b>    |
|--|--|---------------------|
| Identify the task, task leader, purpose, and tentative schedule.   | DRM  | Prekickoff meeting  |
| Verify the billing code.   | Project Manager                                | Prekickoff meeting  |
| Prepare a request for working group members.   | DRM/MSST                                       | Prekickoff meeting  |
| Send a request to MSST for distribution to OAS for working group members and, if applicable, steering committee members. | DRM  | Prekickoff meeting  |
| Send a request to NRC contacts for working group members and, if applicable, steering committee members.                 | DRM  | Prekickoff meeting  |
| Solicit a volunteer and notify MSST of the individual appointee.   | OAS Director of Emerging Issues and Technology | Prekickoff meeting  |
| Coordinate with CRCPD, as applicable.  | OAS chair                                      | Prekickoff meeting  |
| Identify relevant documents.   | DRM  | Prekickoff meeting  |
| Distribute relevant information to working group members.  | Project Manager                                | Before each meeting |
| Review relevant information.   | Working Group/Steering Committee               | Before each meeting |
| Hold the kickoff meeting.  | Project Manager                                | First meeting       |
| Finalize the charter.  | Project Manager                                | First meeting       |
| Define the ground rules, assign tasks, and prepare schedules.  | Project Manager                                | First meeting       |
| Prepare meeting minutes.   | Project Manager                                | As appropriate      |
| Inform management of relevant organizations.   | Project Manager/Working Group                  | Ongoing             |
| Hold working group meetings.   | Project Manager                                | As needed           |
| Hold steering committee meetings.  | Steering Committee and Project Manager         | As needed           |

| <b>TASK</b>  | <b>RESPONSIBILITY</b>         | <b>TIMEFRAME</b>                              |
|--|-------------------------------|---|
| Prepare progress reports for the lead organization and steering committee. | Project Manager/Working Group | Periodically, as defined by the working group |
| Place relevant documents in ADAMS.   | Project Manager               | As needed                                     |
| Prepare the preliminary rule package and the working group report.         | Project Manager/Working Group | 180 days before the final task is due         |
| Prepare the final preliminary rule and working group report.               | Project Manager/Working Group | 110 days before the final task is due         |
| Submit the final report to the steering committee for approval.            | Project Manager               | 95 days before the final task is due          |
| Send the final report to MSST and DRM for Agreement State comment.         | Project Manager               | 90 days before the final task is due          |
| Track to completion.   | Project Manager               | Until the final task is due                   |
| Make the decision to sunset the working group.                             | DRM                           | At task completion                            |

Legend

ADAMS: Agencywide Documents Access and Management System

CRCPD: Conference of Radiation Control Program Directors

DRM: Division of Rulemaking

MSST: Division of Materials Safety, Security, State, and Tribal Programs

OAS: Organization of Agreement States

**APPENDIX C**  
**GENERAL SAMPLE EMAIL REQUEST FOR AGREEMENT STATE MEMBERSHIP ON**  
**RULEMAKING WORKING GROUPS**

**PURPOSE:** The U.S. Nuclear Regulatory Commission (NRC) is soliciting an Agreement State representative to participate in an agency rulemaking working group to [explanation].

**BACKGROUND:** [Provide background on why the working group needs to be created.]

**SUGGESTED MEMBERSHIP:** The working group should consist of approximately [number] members, as follows:

- (1) an NRC/Division of Rulemaking project manager
- (2) a representative from the Agreement States appointed by the Organization of Agreement States Executive Board
- (3) a representative from the NRC Division of Materials Safety, Security, State, and Tribal Programs
- (4) a representative from the NRC Office of the General Counsel

[Provide information on the working group member experience needed.]

**LEVEL OF EFFORT EXPECTED OF MEMBERS:** [Provide the expected level of effort.]

The contact for this rulemaking is [contact name]. Please notify [contact name] of your designee at [e-mail address] or [telephone number].

AGREEMENT STATE PARTICIPATION IN RULEMAKING WORKING GROUPS SA-801A,  
DATED January 16, 2019

**ADAMS Accession No. ML18263A269**

|               |           |            |                   |           |          |
|---------------|-----------|------------|-------------------|-----------|----------|
| <b>OFFICE</b> | NMSS/DRM  | NMSS/DRM   | NMSS/DRM          | NMSS/MSST | OGC      |
| <b>NAME</b>   | ASieracki | ALoveBlair | KMorgan<br>Butler | PMichalak | CEngland |
| <b>DATE</b>   | 10/29/18  | 10/30/18   | 11/18/18          | 11/19/18  | 12/17/18 |
| <b>OFFICE</b> | NMSS/MSST | NMSS/DRM   |                   |           |          |
| <b>NAME</b>   | KWilliams | PHolahan   |                   |           |          |
| <b>DATE</b>   | 01/03/19  | 01/08/19   |                   |           |          |